

AMENDED IN ASSEMBLY JULY 19, 2007

AMENDED IN ASSEMBLY JULY 16, 2007

SENATE BILL

No. 87

Introduced by Committee on Budget and Fiscal Review

January 17, 2007

~~An act relating to the Budget Act of 2007. An act to amend Sections 441 and 452 of, to add Section 5368 to, to add Article 7 (commencing with Section 1160) to Chapter 5 of Part 2 of Division 1 of, and to repeal Section 17052.2 of, the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 87, as amended, Committee on Budget and Fiscal Review. ~~Budget Act of 2007. Taxation: fractionally owned aircraft: teacher retention credit.~~

Existing property tax law requires that aircraft, other than certificated aircraft, be valued and assessed only in the county in which it is habitually situated. Existing property tax law requires owners, as well as operators, of private and public airports, to provide the assessor of the county in which the airport is situated, with specified information regarding aircraft using the airport as a base, to be used by the assessor in the assessment of aircraft at market value.

This bill would instead provide a formula, based upon the number of landings in and departures from a county in proportion to landings and departures worldwide, to assess a fleet of fractionally owned aircraft, as defined, that would be taxed by the counties where the fleet lands. This bill would require that the fleet be assessed to the manager in control of the fleet, as specified. This bill would specify that this fleetwide assessment applies for the 2007–08 fiscal year and each fiscal

year thereafter, and also to specified prior fiscal years. This bill would authorize the Aircraft Advisory Subcommittee of the California Assessors' Association to designate a lead county assessor's office for each manager of a fleet of fractionally owned aircraft in this state in an assessment year. If a lead county assessor's office is designated and that office accepts this designation, this bill would require this lead county assessor to calculate the value of a fleet of fractionally owned aircraft and to transmit these calculations to other county assessors, but would specify that each county assessor is responsible for assessing and enrolling the taxable value of the aircraft that has situs in his or her county, as provided. This bill would provide that fractionally owned aircraft would be assessed under the provisions of the bill only if a designated lead county assessor's office accepts that designation. This bill would also authorize the lead county assessor's office to lead an audit team to audit each manager of a fleet of fractionally owned aircraft, and would require these managers to file a property statement solely with the lead county assessor's office, as provided. This bill would also require owners, as well as operators, of private and public airports to provide, upon the request of the assessor of the county in which the airport is situated, with specified information regarding aircraft utilizing the airport facilities.

Existing law requires taxpayers that meet certain criteria to file a property statement with the county assessor. Existing law requires the State Board of Equalization to prescribe the contents of this statement and to notify property tax assessors of these contents.

This bill would require the board to specify that these property statements contain information regarding the payment of California use tax and a notice to taxpayers that information provided on the statement may be shared with the board. This bill would require the board to implement this change in a manner that does not increase local costs.

The Personal Income Tax Law authorizes various credits against the taxes imposed by that law, including a credit, calculated on the basis of either years of service or a specified formula, to a credentialed teacher for each taxable year beginning on or after January 1, 2007.

This bill would repeal the provision that authorizes this credit.

This bill, by repealing an existing personal income tax credit, would result in a change in state taxes for the purpose of increasing revenue within the meaning of Section 3 of Article XIII A of the California

Constitution, and thus would require, for passage, the approval of $\frac{2}{3}$ of each house of the Legislature.

This bill would declare that it is to take effect immediately as an urgency statute.

This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2007.

Vote: ~~majority~~ $\frac{2}{3}$. Appropriation: no. Fiscal committee: ~~no~~-yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. *The Legislature finds and declares the following:*

2 (a) *A substantial portion of business aviation aircraft is now*
3 *owned and operated under fractional ownership programs.*

4 (b) *Aircraft in fractional ownership programs have a significant*
5 *presence in California.*

6 (c) *The size of some fractional ownership program fleets is quite*
7 *large and the mix of ownership interests and unscheduled usage*
8 *imposes a significant burden on both taxpayers and county*
9 *assessors to assess and tax these fleets on an aircraft-by-aircraft*
10 *basis; in order to reduce this burden, a simplified assessment*
11 *approach is warranted.*

12 (d) *Section 1 of Article XIII of the California Constitution*
13 *specifies that all nonexempt property is taxable. Therefore,*
14 *fractionally owned aircraft are constitutionally required to be*
15 *assessed.*

16 (e) *The purpose of Sections 2 and 4 of this act is to establish a*
17 *simplified procedure for assessing fractionally owned aircraft that*
18 *is appropriate and fair; that allocates assessed value among*
19 *counties in a reasonable manner, and that reduces the*
20 *administrative burden on taxpayers and county assessors.*

21 SEC. 2. *Section 441 of the Revenue and Taxation Code is*
22 *amended to read:*

23 441. (a) *Each person owning taxable personal property, other*
24 *than a manufactured home subject to Part 13 (commencing with*
25 *Section 5800), having an aggregate cost of one hundred thousand*
26 *dollars (\$100,000) or more for any assessment year shall file a*
27 *signed property statement with the assessor. Every person owning*
28 *personal property that does not require the filing of a property*
29 *statement or real property shall, upon request of the assessor, file*

1 a signed property statement. Failure of the assessor to request or
2 secure the property statement does not render any assessment
3 invalid.

4 (b) The property statement shall be declared to be true under
5 the penalty of perjury and filed annually with the assessor between
6 the lien date and 5 p.m. on April 1. The penalty provided by Section
7 463 applies for property statements not filed by May 7. If May 7
8 falls on a Saturday, Sunday, or legal holiday, a property statement
9 that is mailed and postmarked on the next business day shall be
10 deemed to have been filed between the lien date and 5 p.m. on
11 May 7. If, on the dates specified in this subdivision, the county's
12 offices are closed for the entire day, that day is considered a legal
13 holiday for purposes of this section.

14 (c) The property statement may be filed with the assessor
15 through the United States mail, properly addressed with postage
16 prepaid. For purposes of determining the date upon which the
17 property statement is deemed filed with the assessor, the date of
18 postmark as affixed by the United States Postal Service, or the
19 date certified by a bona fide private courier service on the envelope
20 containing the application, shall control. This subdivision shall be
21 applicable to every taxing agency, including, but not limited to, a
22 chartered city and county, or chartered city.

23 (d) (1) At any time, as required by the assessor for assessment
24 purposes, every person shall make available for examination
25 information or records regarding his or her property or any other
26 personal property located on premises he or she owns or controls.
27 In this connection details of property acquisition transactions,
28 construction and development costs, rental income, and other data
29 relevant to the determination of an estimate of value are to be
30 considered as information essential to the proper discharge of the
31 assessor's duties.

32 (2) (A) This subdivision shall also apply to an owner-builder
33 or an owner-developer of new construction that is sold to a third
34 party, is constructed on behalf of a third party, or is constructed
35 for the purpose of selling that property to a third party.

36 (B) The owner-builder or owner-developer of new construction
37 described in subparagraph (A), shall, within 45 days of receipt of
38 a written request by the assessor for information or records, provide
39 the assessor with all information and records regarding that
40 property. The information and records provided to the assessor

1 shall include the total consideration provided either by the
2 purchaser or on behalf of the purchaser that was paid or provided
3 either, as part of or outside of the purchase agreement, including,
4 but not limited to, consideration paid or provided for the purchase
5 or acquisition of upgrades, additions, or for any other additional
6 or supplemental work performed or arranged for by the
7 owner-builder or owner-developer on behalf of the purchaser.

8 (e) In the case of a corporate owner of property, the property
9 statement shall be signed either by an officer of the corporation or
10 an employee or agent who has been designated in writing by the
11 board of directors to sign the statements on behalf of the
12 corporation.

13 (f) In the case of property owned by a bank or other financial
14 institution and leased to an entity other than a bank or other
15 financial institution, the property statement shall be submitted by
16 the owner bank or other financial institution.

17 (g) The assessor may refuse to accept any property statement
18 he or she determines to be in error.

19 (h) If a taxpayer fails to provide information to the assessor
20 pursuant to subdivision (d) and introduces any requested materials
21 or information at any assessment appeals board hearing, the
22 assessor may request and shall be granted a continuance for a
23 reasonable period of time. The continuance shall extend the
24 two-year period specified in subdivision (c) of Section 1604 for a
25 period of time equal to the period of the continuance.

26 (i) Notwithstanding any other provision of law, every person
27 required to file a property statement pursuant to this section shall
28 be permitted to amend that property statement until May 31 of the
29 year in which the property statement is due, for errors and
30 omissions not the result of willful intent to erroneously report. The
31 penalty authorized by Section 463 does not apply to an amended
32 statement received prior to May 31, provided the original statement
33 is not subject to penalty pursuant to subdivision (b). The amended
34 property statement shall otherwise conform to the requirements
35 of a property statement as provided in this article.

36 (j) This subdivision shall apply to the oil, gas, and mineral
37 extraction industry only. Any information that is necessary to file
38 a true, correct, and complete statement shall be made available by
39 the assessor, upon request, to the taxpayer by mail or at the office
40 of the assessor by February 28. For each business day beyond

1 February 28 that the information is unavailable, the filing deadline
2 in subdivision (b) shall be extended in that county by one business
3 day, for those statements affected by the delay. In no case shall
4 the filing deadline be extended beyond June 1 or the first business
5 day thereafter.

6 (k) The assessor may accept the filing of a property statement
7 by the use of electronic media. In lieu of the signature required by
8 subdivision (a) and the declaration under penalty of perjury
9 required by subdivision (b), property statements filed using
10 electronic media shall be authenticated pursuant to methods
11 specified by the assessor and approved by the board. Electronic
12 media includes, but is not limited to, computer modem, magnetic
13 media, optical disk, and facsimile machine.

14 (l) (1) *After receiving the notice required by Section 1162, the*
15 *manager in control of a fleet of fractionally owned aircraft shall*
16 *file with the lead county assessor's office one signed property*
17 *statement for all of its aircraft that have acquired situs in the state,*
18 *as described in Section 1161.*

19 (2) *Flight data required to compute fractionally owned aircraft*
20 *allocation under Section 1161 shall be segregated by airport.*

21 (†)

22 (m) (1) After receiving the notice required by paragraph (5) of
23 subdivision (b) of Section 1153.5, a commercial air carrier whose
24 certificated aircraft is subject to Article 6 (commencing with
25 Section 1150) of Chapter 5 shall file with the lead county assessor's
26 office designated under Section 1153.5 one signed property
27 statement for its personal property at all airport locations and
28 fixtures at all airport locations.

29 (2) Each commercial air carrier may file one schedule for all of
30 its certificated aircraft that have acquired situs in this state under
31 Section 1151.

32 (3) Flight data required to compute certificated aircraft allocation
33 under Section 1152 and subdivision (g) of Section 202 of Title 18
34 of the California Code of Regulations shall be segregated by airport
35 location.

36 (4) Beginning with the 2006 assessment year, a commercial air
37 carrier may file a statement described in this subdivision
38 electronically by means of the California Assessor's Standard Data
39 Record (SDR) network. If the SDR is not equipped to accept
40 electronic filings for the 2006 assessment year, an air carrier may

1 file a printed version of its property statement for that year with
2 its lead county assessor’s office.

3 (5) This subdivision shall remain in effect only until December
4 31, 2010, and as of that date is repealed.

5 *SEC. 3. Section 452 of the Revenue and Taxation Code is*
6 *amended to read:*

7 452. (a) For the assessment year beginning in 1968 and each
8 assessment year thereafter, the board shall prescribe in detail the
9 content of property statements, including the specific wording, to
10 be used by all assessors in the several counties, and cities and
11 counties, and shall notify assessors of those specifications no later
12 than the August 31 prior to the tax lien date on which they become
13 effective. Each assessor shall incorporate the specifications on the
14 exact form he or she proposes to use and submit that form to the
15 board for approval prior to use. The property statement shall not
16 include any question that is not germane to the assessment function.

17 (b) (1) *For property statements to be filed in the 2008*
18 *assessment year and each assessment year thereafter, the board*
19 *shall prescribe that the property statement also include the*
20 *following:*

21 (A) *A brief statement noting the obligation to pay use tax on*
22 *taxable purchases for which sales tax was not applicable.*

23 (B) *Information regarding payment of use tax, which information*
24 *may be limited to the board’s phone number and a Web site address*
25 *at which specific information and forms for use tax payment may*
26 *be obtained.*

27 (C) *A statement advising the taxpayer that information provided*
28 *on a property statement may be shared with the board.*

29 (2) *The board shall implement paragraph (1) in a manner that*
30 *does not increase local costs.*

31 *SEC. 4. Article 7 (commencing with Section 1160) is added to*
32 *Chapter 5 of Part 2 of Division 1 of the Revenue and Taxation*
33 *Code, to read:*

34

35 *Article 7. Fractionally Owned Aircraft*

36

37 *1160. For purposes of this article, all of the following apply:*

38 (a) *The following terms have the following meanings:*

39 (1) *“Aircraft” has the same meaning as specified in Section*
40 *5303.*

1 (2) “Fleet” means all aircraft operated by a manager of a
2 fractional ownership program.

3 (3) “Fleet type” means aircraft classified by make, model, and
4 series operated by a manager of a fractional ownership program.

5 (4) “Fractionally owned aircraft” or “aircraft operated in
6 fractional ownership programs” means those aircraft registered
7 with the Federal Aviation Administration as fractionally owned
8 aircraft.

9 (5) “Landing” means physical contact involving the embarking
10 or disembarking of crew, passengers, or freight, and that physical
11 contact did not arise unintentionally as the result of an emergency.

12 (b) Revenues derived from the taxation of fractionally owned
13 aircraft under this article shall be distributed in accordance with
14 Chapter 6 (commencing with Section 5451) of Part 10 of this
15 division.

16 (c) Fractionally owned aircraft shall be assessed under this
17 article only if a lead county assessor accepts a designation as lead
18 county assessor under Section 1162.

19 1161. (a) Notwithstanding any other law, fractionally owned
20 aircraft that has situs in this state shall be assessed on a fleetwide
21 basis to the manager in control of the fleet and a notice of that
22 assessment shall be issued to that manager.

23 (1) Any fractionally owned aircraft that has been annually
24 assessed for the fiscal years preceding the 2007–08 fiscal year
25 shall be assessed under this article commencing with the 2007–08
26 fiscal year.

27 (2) For fractionally owned aircraft that have not been annually
28 assessed for the fiscal years preceding the 2007–08 fiscal year,
29 assessment under this article applies for the 2007–08 fiscal year
30 and for each fiscal year thereafter, and for preceding fiscal years
31 for which an assessment was not made, and for which a statute of
32 limitations either does not apply or has been waived.

33 (b) A fleet of fractionally owned aircraft establishes situs in this
34 state if an aircraft within the fleet makes a landing in the state.

35 (c) A fleet of fractionally owned aircraft shall be assessed on
36 an allocated basis. An allocation factor shall be established in
37 each county for each fleet type of fractionally owned aircraft for
38 which situs in this state has been established as described in
39 subdivision (b). This allocation factor is a fraction, the numerator
40 of which is the total number of landings and departures made by

1 *the fleet type in the county during the previous calendar year and*
2 *the denominator of which is the total number of landings and*
3 *departures made by the fleet type worldwide during the previous*
4 *calendar year.*

5 *1162. (a) On or before October 1, 2007, the Aircraft Advisory*
6 *Subcommittee of the California Assessors' Association may*
7 *designate a lead county assessor's office for each manager in*
8 *control of a fleet of fractionally owned aircraft.*

9 *(b) If a lead county assessor's office is designated under*
10 *subdivision (a), and that assessor's office accepts that designation,*
11 *the lead county assessor's office described in subdivision (a) shall*
12 *do all of the following:*

13 *(1) Notify, in writing, each manager in control of a fleet of*
14 *fractionally owned aircraft for which the lead county assessor has*
15 *been designated of this designation on or before the first October*
16 *15 that follows that designation.*

17 *(2) Receive the property statement, as described in subdivision*
18 *(1) of Section 441, of each manager in control of a fleet of*
19 *fractionally owned aircraft for which the lead county assessor has*
20 *been designated.*

21 *(3) Calculate, pursuant to Sections 5363 and 5364, an*
22 *unallocated value of all fractionally owned aircraft for each*
23 *manager in control of a fleet of fractionally owned aircraft for*
24 *which the lead county assessor has been designated.*

25 *(4) Electronically transmit to the assessor of each county in*
26 *which a fleet of fractionally owned aircraft has situs for the*
27 *assessment year the value determined by the lead county assessor's*
28 *office under paragraph (3) and the allocation factor described in*
29 *subdivision (c) of Section 1161.*

30 *(5) Lead the audit team described in subdivision (d) when that*
31 *team is conducting an audit of each manager in control of a fleet*
32 *of fractionally owned aircraft for which the lead county assessor*
33 *has been designated.*

34 *(c) (1) Notwithstanding subdivision (b), the county assessor of*
35 *each county in which a fleet of fractionally owned aircraft has*
36 *situs for an assessment year is solely responsible for assessing*
37 *that property by multiplying the unallocated value of each fleet*
38 *type by the allocation factor described in subdivision (c) of Section*
39 *1161, and enrolling the total allocated value for the fleet type. In*
40 *appraising the unallocated value of the fleet type, the assessor*

1 *may consult with the lead county assessor's office designated for*
2 *that fleet.*

3 *(2) The lead county assessor's office is subject to Section 322*
4 *of Title 18 of the California Code of Regulations and Sections 408,*
5 *451, and 1606 to the same extent as the assessor described in*
6 *paragraph (1).*

7 *(d) Notwithstanding Section 469, an audit of each manager in*
8 *control of a fleet of fractionally owned aircraft may be conducted*
9 *once every four years on a centralized basis by an audit team of*
10 *auditor-appraisers from at least one, but not more than three,*
11 *counties, as determined by the Aircraft Advisory Subcommittee of*
12 *the California Assessors' Association. An audit, so conducted,*
13 *shall encompass all of the California personal property and fixtures*
14 *of the manager of the fleet of fractionally owned aircraft and is*
15 *deemed to be made on behalf of each county for which an audit*
16 *would otherwise be required under Section 469.*

17 *SEC. 5. Section 5368 is added to the Revenue and Taxation*
18 *Code, to read:*

19 *5368. Owners, as well as operators, of private and public*
20 *airports shall provide, upon the request of the assessor of the*
21 *county in which the airport is situated, a statement containing the*
22 *make, model, aircraft registration number, and arrival and*
23 *departure information of all aircraft utilizing the airport facilities.*

24 *SEC. 6. Section 17052.2 of the Revenue and Taxation Code is*
25 *repealed.*

26 ~~17052.2.— (a) For each taxable year beginning on or after~~
27 ~~January 1, 2000, and before January 1, 2002, for each taxable year~~
28 ~~beginning on or after January 1, 2003, and before January 1, 2004,~~
29 ~~and for each taxable year beginning on and after January 1, 2007,~~
30 ~~there shall be allowed as a credit against the "net tax" (as defined~~
31 ~~by Section 17039) to a credentialed teacher an amount equal to~~
32 ~~the amount determined in subdivision (b):~~

33 ~~(b) The amount of the credit shall be the lesser of the amounts~~
34 ~~computed under paragraph (1) or (2):~~

35 ~~(1) In the case of any credentialed teacher who has, as of the~~
36 ~~last day of the taxable year:~~

37 ~~(A) Completed at least four but less than six years of service as~~
38 ~~a credentialed teacher, the credit shall be two hundred fifty dollars~~
39 ~~(\$250):~~

1 ~~(B) Completed at least six but less than 11 years of service as~~
2 ~~a credentialed teacher, the credit shall be five hundred dollars~~
3 ~~(\$500).~~

4 ~~(C) Completed at least 11 but less than 20 years of service as a~~
5 ~~credentialed teacher, the credit shall be one thousand dollars~~
6 ~~(\$1,000).~~

7 ~~(D) Completed 20 or more years of service as a credentialed~~
8 ~~teacher, the credit shall be one thousand five hundred dollars~~
9 ~~(\$1,500).~~

10 ~~(E) For purposes of determining years of service, years of~~
11 ~~service performed as a teacher in a qualifying educational~~
12 ~~institution, that otherwise meets the criteria specified in paragraph~~
13 ~~(2) of subdivision (c) except that the qualifying educational~~
14 ~~institution is not located in this state, in another state shall qualify~~
15 ~~for each year the teacher was credentialed by the public education~~
16 ~~agency in that state.~~

17 ~~(2) Fifty percent of the amount determined as follows:~~

18 ~~(A) Divide the amount received by the taxpayer as wages and~~
19 ~~salary for services as a credentialed teacher, as defined in paragraph~~
20 ~~(3) of subdivision (c), by the taxpayer's total adjusted gross income~~
21 ~~from all sources.~~

22 ~~(B) Multiply the taxpayer's total tax, as defined in paragraph~~
23 ~~(4) of subdivision (c), by a ratio, not to exceed 1.00, that is~~
24 ~~otherwise equal to the ratio determined for the taxpayer under~~
25 ~~subparagraph (A).~~

26 ~~(e) For purposes of this section, all of the following definitions~~
27 ~~apply:~~

28 ~~(1) "Credentialed teacher" means a person who holds a~~
29 ~~preliminary or professional clear credential as determined by the~~
30 ~~Commission on Teacher Credentialing pursuant to Article 1~~
31 ~~(commencing with Section 44200) of Chapter 2 of Part 25 of~~
32 ~~Division 2 of Title 2 of the Education Code and who teaches at a~~
33 ~~qualifying educational institution.~~

34 ~~(2) "Qualifying educational institution" means any elementary,~~
35 ~~secondary, or vocational-technical school located in this state~~
36 ~~providing education for kindergarten, grades 1 to 12, inclusive, or~~
37 ~~any part thereof. "Qualifying educational institution" includes an~~
38 ~~agency or instrumentality of the federal government providing~~
39 ~~education for kindergarten, grades 1 to 12, inclusive, or any part~~
40 ~~thereof, at any location within this state, including an Indian~~

1 reservation or a military installation located within the geographical
2 borders of this state, where a credentialed teacher is employed by
3 the federal government or an agency or instrumentality thereof.
4 “Qualifying educational institution” includes any elementary,
5 secondary, or vocational-technical school located in California,
6 that files an affidavit pursuant to Sections 33190 and 33191 of the
7 Education Code, and provides education for kindergarten and
8 grades 1 to 12, inclusive, or any part thereof.

9 (3) “Wages and salaries for services as a credentialed teacher”
10 includes only those amounts received with respect to services
11 performed as a credentialed teacher, but does not include pensions
12 or other deferred compensation.

13 (4) “Total tax” means the tax imposed under this part for the
14 taxable year, before the application under Section 19007 of any
15 payment of estimated tax or any installment thereof, less all credits
16 allowed for the taxable year except for the following:

17 (A) The credit allowed under this section.

18 (B) The credit allowed under Section 17061 (relating to refunds
19 under the Unemployment Insurance Code).

20 (C) The credit allowed under Section 19002 (relating to tax
21 withholding).

22 (D) Any refundable credit that is allowed under this part.

23 *SEC. 7. This act is an urgency statute necessary for the*
24 *immediate preservation of the public peace, health, or safety within*
25 *the meaning of Article IV of the Constitution and shall go into*
26 *immediate effect. The facts constituting the necessity are:*

27 *In order to timely and properly implement the Budget Act of*
28 *2007.*

29 **SECTION 1.** It is the intent of the Legislature to make statutory
30 changes relating to the Budget Act of 2007.